

Fall 2019 National Priorities List Rules

Background:

The National Priorities List (NPL) is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300), was required under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to be established and revised at least annually. The list serves as an information and management tool for the Superfund cleanup process as required under CERCLA. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the "General Superfund section"), and one of sites that are owned or operated by other federal agencies (the "Federal Facilities section"). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (HRS) score and determining whether the facility is placed on the NPL.

There are three ways a site is eligible for the NPL:

1. **Scores at least 28.50:**

A site may be included on the NPL if it scores sufficiently high on the HRS, which EPA published as Appendix A of the NCP. The HRS is a mathematical formula that serves as a screening device to evaluate a site's relative threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for inclusion on the NPL. This is the most common way a site becomes eligible for the NPL.

2. **State Pick:**

Each state and territory may designate one top-priority site regardless of score. 44 states and territories have designated top-priority sites.

3. **ATSDR Health Advisory:**

Certain other sites may be listed regardless of their HRS score, if all of the following conditions are met:

- a. The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services has issued a health advisory that recommends removing people from the site;
- b. EPA determines that the release poses a significant threat to public health; and
- c. EPA anticipates it will be more cost-effective to use its remedial authority than to use its emergency removal authority to respond to the site.

13 sites have been added to the NPL based on ATSDR health advisory criteria.

Sites are first proposed for addition to the NPL in the *Federal Register*. EPA then accepts public comments for 60 days, responds to the comments, and places those sites on the NPL that continue to meet the requirements for listing.

Placing a site on the NPL does not assign liability to any party or to the owner of any specific property; nor does it mean that any remedial or removal action will necessarily be taken.

Status of the NPL (as of 9/30/2019):

- There are currently 1,333 sites on the NPL, 1,176 private sites and 157 federal facilities.
- There are 48 sites that have been proposed for addition to the NPL for which EPA has not yet made a final decision. Of those, 45 are private sites and 3 are federal facilities.
- Once cleanup goals have been achieved and sites are fully protective of human health and the environment, EPA deletes them from the NPL. There are currently 424 sites that have been deleted from the NPL, 407 private sites and 17 federal facilities.

Fall 2019 Final Rule:

Reg	State	Site Name	City/County	Notes
Nonresponsive based on revised scope				

Nonresponsive based on revised scope

Nonresponsive based on revised scope

Fall 2019 Proposed Rule:

Reg	State	Site Name	City/County	Notes
3	DE	Blades Groundwater	Blades	PFOA/PFOS; non-compliance with RCRA
Nonresponsive based on revised scope				

Blades Groundwater, Blades, DE

Background (former site use): Two co-mingled groundwater plumes from two electroplating facilities, one currently active and one former, are potential sources. Procino Plating has been operational since 1983. Peninsula Plating operated at that location from 1980 until 1995.

Contaminants of Concern: Chromium, copper, nickel, zinc and cyanide exceeding EPA screening levels and/or MCLs in groundwater and soil. PFOA/PFOS exceeding PFOA/PFOS health advisory levels (HALs) in groundwater. The site would score without PFOA/PFOS.

Nature and Extent of Risk: Groundwater in the contaminated aquifers serve as the sole-source drinking water for approximately 1,600 people living in the town of Blades who are served by three public and more than 100 private drinking water wells. Chromium, copper, nickel, zinc and cyanide significantly above background in groundwater. Levels of PFOA/PFOS in groundwater exceed EPA's PFOA/PFOS HALs. The residential area to the west of the site is a low-income area.

PRP Information: PRPs have not yet been definitively identified but potential facilities include Procino Enterprises (viable) and Peninsula Plating (viable, but minimal contribution likely).

Notable Site Issues: Both facilities are in the State's voluntary cleanup program but very limited investigation and cleanup work has been done. The facilities have been in non-compliance with RCRA and the Clean Water Act in the past and have had EPA enforcement and limited soil removal actions conducted to contain and manage the contamination. Groundwater contamination was not addressed in the past. The State requested EPA's assistance due to insufficient cleanup work under the state voluntary cleanup program (VCP).

Other Cleanup Approaches Considered/Undertaken: Prior to both PRPs entering the State VCP, enforcement actions were taken - violations were issued by the state and EPA. Procino Plating Inc. received notices of violation from DNREC-SHWMS and EPA for improper handling of hazardous waste in 1994, 2002, 2007, 2008, and 2009. EPA initiated a Federal criminal investigation for hazardous waste storage and wastewater treatment permit violations in 2009 which led to criminal charges against Procino Plating. In 2013, the owner entered a guilty plea for violations of the Clean Water Act, both on behalf of the corporation and as a private citizen. Procino Plating was sentenced to five years of probation and a \$400 special assessment. The owner was sentenced to one year of probation, a \$50,000 fine and \$100 special assessment for illegal storage of hazardous waste without a permit under RCRA.

In 1995 the Fire Chief requested State and EPA assistance because the Peninsula Plating facility was abandoned, had violated EPRCA, and had a series of noncompliance with industrial permitting. Due to apparent threats from onsite contamination an Emergency Removal Action was performed to address bulk contamination and surface soils (August 1995 to December 1995).

A treatment system was installed in 2018 by the town of Blades on three public wells that exceed EPA's PFOA/PFOS HALs. The state of Delaware installed point of treatment for eight residential wells for those locations that exceeded EPA's PFOA/PFOS HALs. Temporary measures taken to mitigate exposure included bottled water from February to May 2018 and then installation of a treatment system. Adding the site to the NPL is necessary for operation and maintenance of the treatment systems, continued cleanup of the two plating facilities, evaluation of other potential sources and restoration of the drinking water aquifer.

Status of State Support: Concurrence letter received August 30, 2019.

Stakeholder Input: The town of Blades owns/operates the municipal wells and the treatment system and supports proposal to NPL. The town has requested that EPA hold public meetings at major junctures in the site assessment process.

Ex. 5 Deliberative Process (DP)

Nonresponsive based on revised scope

Nonresponsive based on revised scope

Nonresponsive based on revised scope

Nonresponsive based on revised scope

Nonresponsive based on revised scope

Nonresponsive based on revised scope